

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

DARYL ROBERTSON DDS, P.A.	§	
Plaintiff,	§	
	§	
v.	§	CIVIL ACTION NO. 2:16-cv-222
	§	
CENTRAL INSURANCE COMPANIES	§	
Defendant	§	

**NOTICE OF REMOVAL**

Defendant, Central Mutual Insurance Company (“Central”), who has been incorrectly named as “Central Insurance Companies”, files this Notice of the Removal of this case from the 316<sup>th</sup> Judicial District Court of Hutchinson County, Texas, to the United States District Court for the Northern District of Texas, Amarillo Division, pursuant to 28 U.S.C. § 1441 and 1446(b), and in support of same, would show the Court as follows:

1.

Central is the Defendant in Cause No. 42542, entitled “Daryl Robertson DDS, P.A. v. Central Insurance Companies”, currently pending in the 316<sup>th</sup> Judicial District Court of Hutchinson County, Texas. That lawsuit was originally filed on September 16, 2016, in the 316<sup>th</sup> Judicial District Court of Hutchinson County, Texas.

2.

On or about September 22, 2016 Central first learned of Plaintiff’s lawsuit, when a copy of Plaintiff’s lawsuit and citation were received by Central by mail from Plaintiff’s attorney on September 22, 2016. Central is therefore filing this notice timely under 28 U.S.C. § 1446(b), as this notice is being filed within thirty days from when Central was served with the lawsuit, and is being

filed within thirty days from when the lawsuit was filed, which is the earliest possible date that the time for removing the lawsuit could start. As the lawsuit was filed on September 16, 2016, thirty days from that date would be October 16, 2016. This notice is being filed prior to October 16, 2016, so that Central's filing of this notice is clearly timely under 28 U.S.C. § 1446(b).

3.

At the date of commencement of this action and at all times relevant to this lawsuit, Plaintiff is a citizen of the State of Texas, being an individual residing in and domiciled in the State of Texas. Further, the actual named plaintiff shows to be a professional association formed under the laws of the State of Texas and having its principal place of business in the State of Texas. At the date of commencement of this action and at all times relevant to this lawsuit, Central is a citizen of the State of Ohio, being an insurance company incorporated in the State of Ohio, and having its principal place of business in the State of Ohio.

4.

This Court has original jurisdiction of this action under 28 U.S.C. § 1332, and it may be removed to this Court by Central, pursuant to 28 U.S.C. § 1441, it being a civil action wherein the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, as between citizens of different states. That the necessary amount in controversy is met is illustrated by Plaintiff's Petition, where in Paragraph 12 of the Petition, Plaintiff contends it is owed \$44,530.61 by Central, and Paragraph 29, where Plaintiff seeks additional damages under Section 17.50(b)(1) of the Business and Commerce Code, which statute authorizes the fact finder to award a plaintiff up to twice the amount of actual damages as additional damages for "knowing" actionable conduct engaged in by the defendant. This would make the potential amount in controversy in this matter over \$120,000,

before consideration of the attorney's fees being sought by Plaintiff. As such, the required amount in controversy necessary for this Court to exercise diversity jurisdiction clearly exists in this matter.

5.

Copies of all the pleadings which have been filed in this action to date and which are attached as Exhibit "A" include the following:

- a. Plaintiff's Original Petition; and
- b. Citation served on Central.

To the best of Central's knowledge, no other pleading, process or order has been filed or served in the state court lawsuit referred to above. Attached as Exhibit "B" is the Certificate of Interested Persons required by the Court.

Wherefore, Defendant, Central Mutual Insurance Company, prays that this action be removed to this Court from the 316<sup>th</sup> Judicial District Court of Hutchinson County, Texas and for further proceedings as may be necessary.

Respectfully submitted,

/S/Russell J. Bowman  
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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing instrument was served upon the following, as indicated below, on this the 15<sup>th</sup> day of October, 2016:

Mr. Leon Mitchell  
MITCHELL & JONES  
P. O. Drawer 707  
Borger, Texas 79008-0707

VIA E-MAIL: slmitchell@sbcglobal.net

/S/Russell J. Bowman

Russell J. Bowman